

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) FLOYD BROWN)	
)	
Plaintiff,)	
)	
vs.)	Case No. 15-cv-547-JED-PJC
)	
(2) JV INDUSTRIAL COMPANIES,)	
a foreign limited partnership, also d/b/a)	
HOLLY REFINERY,)	
(3) ZACHRY INDUSTRIAL, INC., a)	
foreign for profit business corporation,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332 and 1446(a), Defendants JV Industrial Companies, Ltd. (“JVIC”) and Zachry Industrial, Inc. (“Zachry”), file this Notice of Removal and would show the Court the following:

1. JVIC and Zachry are named as defendants in the state court action styled *Floyd Brown v. JV Industrial Companies and Zachry Industrial, Inc.*, Case No. CJ-2015-3329, pending in the District Court of Tulsa County, Oklahoma.

2. Plaintiff originally filed this lawsuit on September 10, 2015 and obtained service on both JVIC and Zachry on or about September 14, 2015.

3. Plaintiff’s Petition asserts a claim pursuant to the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621, *et seq.*, (the ADEA”), seeking damages against “Defendant,” as well as a claim of retaliation in alleged violation of the

ADEA.

4. Plaintiff's Petition also asserts a cause of action against "Defendant" pursuant to the common law of Oklahoma for intentional infliction of emotional distress.

5. Nowhere in the Petition does plaintiff state which "Defendant" is named in which cause of action and the factual allegations do not specify.

6. Nevertheless, for purposes of this Notice of Removal, JVIC and Zachry both assume the allegations are made against it.

7. The state law claim for intentional infliction of emotional distress made by Plaintiff is so related to the claims made pursuant to the ADEA that the state law claim forms part of the same case or controversy under Article III of the United States Constitution.

8. Removal of this case to this Court is proper under 28 U.S.C. §1441 because this is a civil action over which the District Courts of the United States have original jurisdiction pursuant to 28 U.S.C. §1331 (*i.e.*, federal question) and have supplemental jurisdiction pursuant to 28 U.S.C. §1367(a) (*i.e.*, "same case or controversy").

9. All defendants who have been properly joined and served consent to the removal of this action pursuant to 28 U.S.C. §1446(b)(2)(A).

10. This Notice of Removal is timely filed within thirty (30) days after Defendants JVIC and Zachry received, through service or otherwise, a copy of the initial pleading setting forth the claims for relief upon which the action or proceeding is based, pursuant to 28 U.S.C. §1446(b).

11. In accordance with 28 U.S.C. §1446(a) and LCvR 81.2, JVIC and Zachry file herewith the following documents:

- a) Copies of all pleadings and orders filed in the state court action as of this date (Ex. 1);
- b) A copy of the summons served on JVIC on or about September 14, 2015 (Ex. 2);
- c) A copy of the summons served on Zachry on or about September 14, 2015 (Ex. 3); and
- d) A copy of the District Court of Tulsa County's Docket Sheet (Ex. 4).

12. Upon receiving a case number for this removed action, JVIC and Zachry will file a "Status Report on Removed Actions" pursuant to LCvR 81.2, along with an entry of appearance for counsel and required disclosures pursuant to LCvR 7.1.

13. Promptly after filing this Notice of Removal, JVIC and Zachry will give written notice of the removal to Plaintiff through his counsel of record, and to the clerk of the District Court of Tulsa County, Oklahoma, as required by 28 U.S.C. §1446(d).

WHEREFORE, the Defendant JV Industrial Companies, Ltd., and Zachry Industrial, Inc., respectfully requests that this action now pending in the District Court of Tulsa County, Oklahoma be removed to the United States District Court for the Northern District of Oklahoma, as an action properly removable thereto.

Respectfully submitted,

s/ Larry G. Cassil, Jr.

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*Counsel for Defendants,
JV Industrial Companies, Ltd. and
Zachry Industrial, Inc.*

CERTIFICATE OF SERVICE

This is to certify that on the 27th of September, 2015, a true and correct copy of the foregoing document was served, via the ECF Filing System, to:

Daniel E. Smolen
Lauren G. Lambright
SMOLEN, SMOLEN & ROYTMAN, PLLC
701 South Cincinnati Avenue
Tulsa, OK 74119

Counsel for Plaintiff, Floyd Brown

-and-

via United States Mail with first class postage prepaid fully thereon, to:

Sally Howe Smith
Court Clerk for Tulsa County
Tulsa County Courthouse
500 S. Denver
Tulsa, OK 74103

/s Larry G. Cassil, Jr.
Larry G. Cassil, Jr., PLLC